

FY 2003 HOPE VI DEMOLITION GRANT AGREEMENT

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FY 2003 HOPE VI DEMOLITION GRANT AGREEMENT

This grant agreement ("Grant Agreement") is made by and between the United States Department of Housing and Urban Development ("HUD") and the public housing agency ("Grantee") identified in block 7 of the cover sheet ("Cover Sheet") of this Grant Agreement (Form HUD-1044). The Grantee received a HOPE VI Demolition Grant in fiscal year (FY) 2003, for the public housing development that is the subject of this Grant Agreement ("Development"), and that is identified in block 16 of the Cover Sheet.

HUD agrees, subject to the terms of this Grant Agreement, to provide grant funds to the Grantee, in the total amount listed in block 14 of the Cover Sheet, for the demolition activities described in the HOPE VI Demolition Plan as defined in Article II.

The assistance that is the subject of this Grant Agreement is authorized by, and required to be used in accordance with, Section 24 of the U.S. Housing Act of 1937 (the "HOPE VI Authorization"). Funding for the HOPE VI Authorization is appropriated by the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7, approved on February 20, 2003) under the heading, "Revitalization of Severely Distressed Public Housing (HOPE VI)" (the "HOPE VI Appropriations Act").

The Cover Sheet and Exhibits are incorporated into, and subject to the terms of, this Grant Agreement.

HUD and the Grantee hereby agree to be bound by the following terms and conditions of this Grant Agreement:

ARTICLE I. HOPE VI Demolition Requirements

The Grantee agrees to conduct all eligible and HUD-approved demolition activities to be assisted with funds provided under this Grant Agreement (“Demolition Activities”) in accordance with the following requirements, as such requirements now exist or as they may hereafter be amended (hereafter collectively referred to as the “HOPE VI Demolition Requirements”).

- (A) the U.S. Housing Act of 1937 (the “1937 Act”), including the HOPE VI Authorization and all implementing regulations;
- (B) the HOPE VI Appropriations Act;
- (C) the Annual Contributions Contract (the “ACC”) entered into between the Grantee and HUD, and any amendments thereto;
- (D) the Notice of Funding Availability published in the Federal Register on October 21, 2003 (68 FR 60178) (the “HOPE VI NOFA”) as amended through technical corrections on October 24, 2003 (68 FR 61044) and December 9, 2003 (68 FR 68644);
- (E) the regulations at 24 CFR part 971 and other applicable HUD requirements, if the Development assisted under this Grant Agreement is subject to Mandatory Conversion (section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved on April 26, 1996)), which concerns the required conversion of certain distressed public housing to vouchers (the “Section 202 Requirements”). If applicable, the Grantee must submit to HUD for approval a plan for removal of the units from its inventory (“Section 202 Conversion Plan”);
- (F) any regulations, handbooks, notices, or policies applicable to the Demolition Activities;
- (G) any executive orders applicable to the Demolition Activities;
- (H) the terms and requirements of this Grant Agreement and any amendments thereto;
- (I) part 85 of title 24 of the Code of Federal Regulations (“Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments”), except as any of such requirements may be modified by regulations applicable to the Demolition Activities;
- (J) the cost principles of the Office of Management and Budget (“OMB”) contained in Circular A-87 (“Cost Principles for State, Local, and Indian Tribal Governments”), except as any of such requirements may be modified by regulations applicable to the Demolition Activities; and

- (K) all other applicable Federal requirements, including, without limitation, those set forth in Article X (Fair Housing Certifications).
- (L) 31 U.S.C.A. § 1552. In accordance with this statute, **all FY 2003 HOPE VI funds must be expended by September 30, 2009.** Any funds that are not expended by that date will be cancelled and recaptured by the Treasury, and thereafter will not be available for obligation or expenditure for any purpose.

ARTICLE II. HOPE VI Demolition Plan

- (A) Demolition Plan.
 - (1) The HOPE VI Demolition Plan consists of the exhibits of the HOPE VI demolition grant application submitted in response to the HOPE VI NOFA and approved by HUD, and
 - (2) any submissions requested and approved by HUD in connection with the Demolition Activities (including a revised budget, approval of a Section 202 Conversion Plan, etc.).
- (B) Revisions to Demolition Plan. The Grantee must obtain HUD approval to make any revisions to the Demolition Plan, whether or not there is an associated revision of the budget. Such revisions include, without limitation:
 - (1) a change in the total number of dwelling units to be demolished, and
 - (2) the non-dwelling facilities to be demolished.
- (C) Special Conditions. HUD has the right to establish special conditions with respect to the Grantee's performance of activities under this Grant Agreement, either prior to the execution of this Grant Agreement or under the circumstances set forth in Article XV (Unsatisfactory Performance/Default).
- (D) Incorporation into Grant Agreement. Each component of the Demolition Plan, as approved in the Grantee's HOPE VI Demolition Grant Application, is hereby incorporated into this Grant Agreement. Any amendment to any component of the Demolition Plan will be incorporated into this Grant Agreement upon written approval by HUD.
- (E) PHA Annual Plan. The Grantee agrees that its next PHA Plan and revised five-year action plan, as required under 24 CFR part 903, must reflect the use of HOPE VI Demolition Grant funds for the implementation of activities under the Demolition Plan.

ARTICLE III. Demolition Grant Relocation

- (A) General. The Grantee will provide suitable, decent, safe, and sanitary housing for each family required to relocate as a result of the Demolition Activities under the Demolition Plan.
- (B) Relocation Plan. The relocation plan that the Grantee certified to having completed in Exhibit E of the HUD-approved HOPE VI Demolition Grant Application shall constitute the plan that the Grantee will abide by in carrying out relocation in connection with the Demolition Activities (“Relocation Plan”).
- (C) Relocation Plan Requirements.
 - (1) If the demolition of the severely distressed public housing units and any community facilities is approved on the basis of a HUD-approved demolition application submitted to HUD pursuant to Section 18 of the 1937 Act (“Section 18 Demolition Application”), relocation is subject to Section 18 of the 1937 Act.
 - (2) If demolition of the severely distressed public housing units and any community facilities is approved on the basis of a HUD-approved Section 202 Conversion Plan, relocation is subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (URA).
- (D) Section 8 Housing.
 - (1) The Grantee must ensure that Section 8 housing complies with the Section 8 requirements regarding lead-based paint and other hazardous materials.
 - (2) If necessary, the Grantee may use HOPE VI funds to modify Section 8 relocation units to make them accessible for residents with disabilities.

ARTICLE IV. Program Schedule

- (A) The schedule of Demolition Activities as included in Exhibit C of the Grantee’s HUD-approved HOPE VI Demolition Grant Application shall constitute the schedule that the Grantee will abide by in carrying out Demolition Activities (“Program Schedule”).
- (B) The Program Schedule must reflect the requirements that the Grantee will begin the Demolition Activities within six months from the date of execution of this Grant Agreement and will complete the Demolition Activities within two years from the date of execution of this Grant Agreement.
- (C) The Grantee must inform HUD immediately, in writing, of any problems, delays, or adverse conditions that will impair materially the Grantee’s ability to comply

with the Program Schedule, and include a statement of action taken, or proposed to be taken, and any assistance needed to resolve the situation.

- (D) The Grantee must request HUD approval of any proposed changes to the Program Schedule that would modify any date or time period in excess of 30 calendar days from the date previously approved by HUD.
- (E) If the Grantee does not comply with the reasonable time periods established by HUD under (B) above, HUD may, in accordance with section 24(i) of the 1937 Act, recapture any grant funds not obligated by the Grantee and redistribute such funds to one or more other applicants eligible for HOPE VI demolition assistance, or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the Grantee's Demolition Plan.
- (F) If the Grantee fails to comply with the reasonable time periods established in (B) above, HUD may take into account whether factors beyond the Grantee's control are the cause of the delay.

ARTICLE V. Finance and Accounting

- (A) Program Budget. The budget as included in Exhibit H of the Grantee's HOPE VI Demolition Grant Application, and as approved by HUD, shall constitute the budget for the grant ("Program Budget").
 - (1) Budget Form. Each request for an amendment of the Program Budget must be submitted on Form HUD-52825-A, Parts I and II ("HOPE VI Budget Form"). Part I must be signed and dated by the Executive Director, and Part II must include a detailed description of the uses of the funds.
 - (2) Budget Approval. Upon approval of the Grantee's HOPE VI Demolition Grant Application, HUD has either:
 - (a) approved the specific budget line items of the Program Budget, as indicated on the executed Budget Form, or
 - (b) approved only the total amount of the grant funds approved, as indicated on the executed Budget Form. In that case, the Grantee must submit to HUD and obtain approval of a revised Program Budget before grant funds may be disbursed.
 - (3) Budget Amendments. The Grantee must submit a request for a budget amendment and obtain approval from HUD in order to increase or decrease a budget line item, except as permitted by Article VI (Project Drawdowns).

- (4) Lobbying. The Grantee hereby certifies that no HOPE VI Grant funds will be expended for lobbying activities, as prohibited by Section 319 of Public Law 101-121 (which prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government), and implemented for HUD at 24 CFR part 87, as the same may be amended from time to time. The Grantee will disclose promptly any commitment or expenditure of non-appropriated funds for lobbying activities if those activities would be prohibited if paid with appropriated funds.
- (B) Cost Limitations.
- (1) HOPE VI funds may be used for eligible expenditures, as authorized under this Grant Agreement and the HOPE VI Demolition Requirements.
- (2) HUD's Total Development Cost (TDC) Limits apply to the expenditure of public housing funds (including funds provided under this Grant Agreement) if they are used in combination with other HUD funds, such as HOPE VI Revitalization Funds or Capital Funds, for any subsequent development of housing units on the site after demolition.
- (3) The Grantee will comply with HUD guidance and policies regarding cost controls that establish reasonable costs for administration, planning, technical assistance, fees for architectural and engineering work, and reasonable legal fees. These costs are limited to the incremental costs of implementing the Demolition Activities as specifically approved by HUD.
- (C) Commingling of Grant Funds. The Grantee agrees that, in its accounts and recordkeeping, it will not commingle HOPE VI Grant funds with funds from any other sources including, but not limited to, other HUD program funds or funds from other Federal, State or local government agencies. (Such other funds may be used to carry out the Demolition Plan, so long as they are not commingled in the Grantee's accounts and recordkeeping.)
- (D) Duplication of Funding. The Grantee will ensure that HOPE VI Demolition Grant funds are not used to duplicate work that is funded with any other HUD funds, funds from any other Federal program, or from any other funding source, and will establish controls to assure non-duplication of funding.
- (E) HUD Reform Act. The Grantee will comply with Section 102 of the Department of Housing and Urban Development Reform Act of 1989, as implemented at 24 CFR part 4, subpart A, which contains provisions regarding documentation of funding decisions to subgrantees, the disclosure of any pecuniary interest of any interested party and the amount of government assistance made available to the Grantee. If the Demolition Activities will be followed by revitalization of the site with HOPE VI Revitalization Grant funds or other HUD funds, a subsidy layering review will be performed to ensure that the Grantee will not provide to the development or any off-site replacement housing more assistance under the

HOPE VI Program than is necessary to provide affordable housing after taking into account other governmental assistance provided.

ARTICLE VI. Project Drawdowns

- (A) LOCCS Payment System. Notwithstanding any contrary provisions of 24 CFR 85.21, the Grantee will request all drawdowns of grant funds under the Line of Credit Control System (LOCCS), unless and until another payment system is designated by HUD. The Grantee will comply with all rules, guidelines, and notices established for HOPE VI under LOCCS, or any substitute system, in connection with any drawdown of HOPE VI Grant funds. If HUD designates a different payment system, it will be based upon the provisions of section 85.21 (subject to the provisions of Article XIII(D)).
- (B) Environmental Review. The Grantee may not carry out any Demolition Activities until HUD has approved a request for release of funds in accordance with 24 CFR part 58 or has completed an environmental review on each affected site in accordance with 24 CFR part 50. The costs of environmental reviews are eligible program expenses.
- (C) Drawdowns.
 - (1) Without HUD approval, the Grantee may draw down grant funds for a Budget Line Item (BLI) in an amount up to 110 percent of the amount of that BLI that HUD has approved and made available for drawdown.
 - (2) With HUD approval, the Grantee may request funds that exceed 110 percent of a BLI, provided that any such change does not cause, or result from, a revision to the scope or objectives of the Demolition Plan.
 - (3) Notwithstanding sections (C)(1) and (C)(2) above, the Grantee may not request more than 100 percent of the amount authorized for BLI 1410 (Administration).
 - (4) HUD must approve any request for funds in excess of 5 percent of the entire grant amount in any month before such funds may be disbursed to the Grantee.
- (D) Pre-Grant Agreement Execution Costs. After the execution of this Grant Agreement and HUD approval of a revised Program Budget, if applicable, the Grantee may draw down funds for costs that were incurred under the Demolition Plan prior to execution of this Grant Agreement, provided that such costs:
 - (1) were incurred after June 9, 2004, which is the date of HUD's notification letter awarding this HOPE VI Demolition Grant to the Grantee, and
 - (2) are directly associated with the activities to be funded with HOPE VI Grant funds under the Demolition Plan.

(E) Drawdown Consequences of Default.

- (1) Withholding of Payments. HUD may withhold payments in accordance with 24 CFR 85.21(g).
- (2) Grantee Representations. Each drawdown request by the Grantee will constitute, and be deemed to be, a representation that the Grantee is not in default under this Grant Agreement (except as the Grantee previously may have disclosed to HUD in writing).
- (3) Overdue Reports. No grant funds may be released during any period in which the Grantee has failed to file with HUD any overdue Quarterly Report.

ARTICLE VII. Recordkeeping

- (A) Recordkeeping Authorities. The Grantee will comply with and be subject to all Federal recordkeeping requirements, including, but not limited to:
 - (1) the retention and access requirements for records under 24 CFR 85.41;
 - (2) the non-Federal audit requirements under 24 CFR 85.26, including, without limitation, the requirements relating to each subgrantee to which the Grantee provides \$300,000 or more of HOPE VI Grant funds in any fiscal year; and
 - (3) the requirements of 24 CFR 85.20 that facilitate an effective audit to determine compliance with program requirements.
- (B) Recordkeeping Requirements. Grantees must retain records in accordance with the requirements of paragraph (A) of this Article, including, but not limited to:
 - (1) the amount and disposition of funds received under this HOPE VI Demolition Grant, including sufficient records that document the reasonableness and necessity of each expenditure;
 - (2) the amount and nature of any other assistance, including cash, services, or other resources contributed to carry out the Demolition Activities;
 - (3) fair housing and equal opportunity data, including racial and ethnic data of relocatees and any other information to demonstrate compliance with the fair housing and equal opportunity requirements of the HOPE VI Program as identified in Article X (Fair Housing Certifications).
- (C) Access to Records. For the purpose of audit, examination, monitoring, and evaluation, the Grantee will give HUD (including any duly authorized representatives and the Inspector General) access to any books, documents,

papers, and records of the Grantee that are pertinent to assistance received under this HOPE VI Demolition Grant or under the Demolition Plan, including all records required to be kept by paragraph (B) of this Article.

ARTICLE VIII. Subgrantees, Contractors and Subcontractors

- (A) HOPE VI Demolition Requirements. The Grantee shall ensure that any entity to which it makes grant funds available will comply with the HOPE VI Demolition Requirements.
- (B) Required Certifications.
 - (1) The Grantee must ensure that all subgrantees, contractors and subcontractors execute an original document in the form of Exhibit A or B to this Grant Agreement at the time the Grantee executes any contract with any subgrantee or contractor, and at the time any contractor executes any contract with any subcontractor, to provide goods or services under this Grant Agreement. The Grantee will retain the executed original certification together with the executed contract documents.
 - (2) The Grantee must ensure that the requirements contained in the General Conditions for Construction Form (Form 5370) are included in any solicitation for bids related to any construction contractor that will be paid for with assistance under this Grant Agreement. Such conditions must also be included in any construction contract entered into by the Grantee with the selected contractor.
 - (3) The Grantee must ensure that the requirements contained in the General Conditions for Non-Construction Form (Form 5370-C) are included in any solicitation in connection with non-construction contracts that will be paid for with assistance under this Grant Agreement. Such conditions must also be included in any non-construction contract entered into by the Grantee and the selected contractor.
- (C) Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. Consistent with Executive Order 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended, it is required that neither the Grantee nor any subrecipient or program beneficiary receiving funds under an award granted under the FY 2003 HOPE VI Revitalization Notice of Funding Availability (NOFA), nor any construction manager acting on behalf of the Grantee or any such subrecipient or program beneficiary, may require bidders, offerors, contractors, or subcontractors to enter into or adhere to any agreement with any labor organization on any construction project funded in whole or in part by such award or on any related federally funded construction project; or prohibit bidders,

offerors, contractors, or subcontractors from entering into or adhering to any such agreement on any such construction project; or otherwise discriminate against bidders, offerors, contractors, or subcontractors on any such construction project because they become or refuse to become or remain signatories or otherwise to adhere to any such agreements. Contractors and subcontractors are not prohibited from voluntarily entering into such agreements. A recipient or its construction manager may apply to HUD under Section 5(c) of the Executive Order for an exemption from these requirements for a project where a construction contract on the project had been awarded as of February 17, 2001, and was subject to requirements that are prohibited under the Executive Order.

(D) Subgrant Agreements.

- (1) Relocation Service Providers. The Grantee may enter into subgrant agreements with non-profit entities or state or local governments (as defined in 24 CFR part 85) for the provision of relocation and mobility counseling under the Demolition Plan. Although the Grantee is not required to undertake a competitive procurement under 24 CFR part 85 to select a non-profit or state or local government subgrantee, the Grantee affirms that before it executes any subgrant agreements, it will:
 - (a) evaluate alternative service providers for the specific services to be provided;
 - (b) select the entity that it reasonably believes will most effectively provide such services;
 - (c) ensure that the amount to be awarded under the subgrant agreement is consistent with the cost principles of OMB Circular A-87; and
 - (d) submit the subgrant agreement to HUD for approval before execution.
- (2) Grantee Responsibilities Regarding Subgrantees. The Grantee affirms that it will:
 - (a) ensure that subgrantees are aware of the requirements imposed upon them by Federal statutes, regulations, and this Grant Agreement;
 - (b) ensure that subgrant agreements include any clauses required by Federal statutes, executive orders, and their implementing regulations; and
 - (c) monitor subgrantees' performance to ensure compliance with the HOPE VI Demolition Requirements.

- (3) State or Local Subgrantee Requirements. State or local government subgrantees are subject to, and required to comply with, the Administrative requirements at 24 CFR part 85 (“Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments”), as modified by 24 CFR 941 or successor part, subpart F, the cost principles of OMB Circular A-87 (“Cost Principles for State, Local and Indian Tribal Governments”) and 24 CFR 85.26.
 - (4) Nonprofit Subgrantee Requirements. Nonprofit subgrantees are subject to, and required to comply with, the provisions and standards set forth in the regulations at 24 CFR part 84 (“Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations”), OMB Circular A-122 (“Cost Principles for Nonprofit Organizations”) and 24 CFR 84.26.
- (E) Contractors and Subcontractors.
- (1) For-Profit Entities. The Grantee may not enter into a subgrant agreement with a for-profit entity or with the entity that will carry out Demolition Activities other than relocation.
 - (2) Contractor/Subcontractor Procurement. If the Grantee obtains the services of an entity to carry out Demolition Activities other than relocation, it must do so through a competitive procurement under 24 CFR part 85. However, if the Grantee can demonstrate to HUD that the services to be provided by the entity can be obtained only from that one source, the Grantee may request HUD approval to select the applicant under a sole-source procurement in accordance with 24 CFR 85.36(d)(4).
 - (3) Administrative and Cost Requirements. For-profit contractors and subcontractors are subject to, and required to comply with, the provisions and standards set forth in the regulations at 24 CFR part 84 (“Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations”), 48 CFR part 31 (“Contract Cost Principles and Procedures”) and 24 CFR 84.26.
 - (4) Trigger for the Submission of Contracts. The Grantee will submit to HUD, for prior approval, the contract documents for any contract if HUD requires such approval under the Grantee’s contract approval threshold amount (as established for the Grantee under the Comprehensive Grant Program or the Capital Fund Program, as applicable). Alternatively, contract documents must be submitted to HUD for prior approval if otherwise required or requested by HUD under 24 CFR 85.36. Any modification of such contracts is also subject to HUD’s approval before execution.
- (F) Debarred or Suspended Parties. Prior to executing any contract, the Grantee will

comply with, and ensure compliance with, regulations at 24 CFR 85.35 and 24 CFR part 24, which prohibit the employment, engagement of services, awarding of contracts or subgrant agreements, or funding of any recipients, contractors, or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

- (G) Minority, Women's, and Resident-Controlled Business Enterprises. In accordance with Executive Orders 11246, 11625, 12432, and 12138, the Grantee will adopt the goal of awarding a specified percentage of the dollar value of the total of the HOPE VI contracts to be awarded as a result of this grant to minority business enterprises, and take appropriate affirmative action to assist resident-controlled and women's business enterprises.
- (H) No Third Party Rights. The Grantee and HUD are the sole parties to this Grant Agreement and do not intend to create any third party beneficiaries to this Grant Agreement. Nothing in this Grant Agreement may be construed as conferring the status of third party beneficiary upon the residents, and in no event shall any entity other than the Grantee have direct rights to the HOPE VI funds provided for under this Grant Agreement.

ARTICLE IX. Environmental Review

- (A) Requirement for Review. The Grantee may not undertake any actions that are choice-limiting or could have environmentally adverse effects, including any of the Demolition Activities, and may not expend HUD or local funds for the Demolition Activities, until HUD has approved a Request for Release of Funds following a responsible entity's environmental review under 24 CFR part 58 or until HUD has completed an environmental review and given approval for the action under 24 CFR part 50.
- (B) Responsible Entity.
 - (1) Environmental review responsibilities for projects funded with assistance under this Grant Agreement must be assumed by the "responsible entity." As defined in 24 CFR 58.2(a)(7), the responsible entity for public housing agencies is the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State.
 - (2) If the Grantee objects to the responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts and determine who will perform the environmental review. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing, or compatibility of objectives, or in accordance with 24 CFR 58.77(d)(1).

- (3) If a responsible entity objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50. After selection by HUD for Joint Review, the Grantee shall provide any documentation to the responsible entity (or HUD, where applicable) that is needed to perform the environmental review.
- (C) Review. The Grantee must have a Phase I environmental site assessment completed in accordance with the American Society for Testing and Material (ASTM) Standards E 1527-00, as amended, for each affected site. A Phase I assessment is required whether the environmental review is completed under 24 CFR part 50 or 24 CFR part 58. The results of the Phase I assessment must be included in the documents that must be provided to the responsible entity (or HUD) for the environmental review. If the Phase I assessment recognizes environmental concerns or if the results are inconclusive, a Phase II environmental site assessment will be required.
- (D) Documentation of Part 58 Review. Two forms are required to complete the Environmental Review under Part 58 for HOPE VI projects.
- (1) Form 7015.15 is the Request for Release of Funds and Certification (RROF), signed and dated by the Certifying Officer of the Responsible entity (typically the Mayor or City Manager of a city) and the Grantee.
- (2) Form 7015.16 authorizes the Grantee to use the funds provided by this Grant Agreement. HUD signs this form.
- (E) HUD Notification of Environmental Conditions. HUD will notify the Grantee of any conditions, modifications, or prohibitions as a result of the environmental review, including the need for any further environmental review. The Grantee must carry out any mitigating or remedial measures required by HUD. If HUD does not approve the remediation plan and a fully funded contract with a qualified contractor licensed to perform the required type of remediation is not executed, HUD reserves the right to determine that the grant is in default.
- (F) Costs of Environmental Review. In accordance with 24 CFR 58.23, the costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in 24 CFR 58.5 and 58.6, are eligible costs under this Grant Agreement.
- (G) Lead-Based Paint. You must comply with lead-based paint evaluation and reduction requirements as provided for under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*). You must also comply with regulations at 24 CFR part 35, 24 CFR 965.701, and 24 CFR 968.110(k), as they may be amended or revised from time to time. Unless otherwise provided, you will be responsible for lead-based paint evaluation and reduction activities.

- (H) Procurement of Recovered Materials. State agencies and agencies of a political subdivision of a state that are using assistance under this NOFA for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with Section 6002, these agencies and persons must procure items designated in guidelines of the Environmental Protection Agency at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

ARTICLE X. Fair Housing Certifications

- (A) Compliance with Fair Housing and Civil Rights Laws. All applicants and their subrecipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a), as applicable.
- (B) Desegregation Orders. You must be in full compliance with any desegregation or other court order and Voluntary Compliance Agreements related to Fair Housing (e.g., Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and section 504 of the Rehabilitation Act of 1973) that affects your public housing program and that is in effect on the date of application submission.
- (C) Additional Nondiscrimination Requirements. You and your subrecipients, must comply with:
- (1) Title IX of the Education Amendments Act of 1972.
 - (2) The American with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)
- (D) Ensuring the Participation of Disadvantaged Firms. The Department is committed to ensuring that small businesses, small disadvantaged businesses, minority firms, women's business enterprises, and labor surplus area firms participate fully in HUD's direct contracting and in contracting opportunities generated by HUD grant funds. Too often, these businesses still experience difficulty accessing information and successfully bidding on federal contracts. HUD regulations at 24 CFR 85.36(e) require recipients of assistance (grantees and subgrantees) to take all necessary affirmative steps in contracting for purchase of goods or services to assure that these disadvantaged firms are used when possible. Affirmative steps include:

- (1) Placing disadvantaged firms on solicitation lists;
- (2) Assuring that disadvantaged firms are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by disadvantaged firms;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by disadvantaged firms;
- (5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in Sections (1) through (5) above.

ARTICLE XI. Labor Standards

- (A) The Grantee will comply with the following labor standards:
 - (1) Davis-Bacon wage rates, which apply to demolition if followed by construction on the site, and/or
 - (2) HUD-determined wage rates, which apply to demolition followed only by filling in the site and establishing a lawn.
- (B) Exclusions. Under Section 12(b) of the 1937 Act, the wage rate requirements do not apply to individuals who:
 - (1) perform services for which they volunteered;
 - (2) do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and
 - (3) are not otherwise employed in the work involved (24 CFR part 70).
- (C) Other Program Requirements. If other Federal funds are used in connection with the Demolition Activities, labor standards requirements apply to the extent required by the other Federal programs on portions of the project that are not subject to the requirements of paragraph (A) of this Article.
- (D) Section 3. The Grantee will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulations at 24 CFR part 135.

- (E) Deconstruction. The Grantee is encouraged to implement sustainable demolition practices such as the dismantling or “deconstruction” of public housing units and recycling demolition debris.

ARTICLE XII. Conflict of Interest

- (A) Prohibition. In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this HOPE VI Demolition Grant, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.
- (B) HUD-Approved Exception.
- (1) Standard. HUD may grant an exception to the exclusion in paragraph (A) of this Article on a case-by-case basis if it determines that such an exception will serve to further the purposes of the HOPE VI Program and its effective and efficient administration.
- (2) Procedure. HUD will consider granting an exception only after the Grantee has provided a disclosure of the nature of the conflict, accompanied by
- (a) an assurance that there has been public disclosure of the conflict;
 - (b) a description of how the public disclosure was made; and
 - (c) an opinion of the Grantee's attorney that the interest for which the exception is sought does not violate State or local laws.
- (3) Consideration of Relevant Factors. In determining whether to grant a requested exception under paragraph (B) of this Article, HUD will consider the cumulative effect of the following factors, where applicable:
- (a) whether the exception would provide a significant cost benefit or an essential degree of expertise to the Demolition Activities that would otherwise not be available;
 - (b) whether an opportunity was provided for open competitive bidding or negotiation;
 - (c) whether the person affected is a member of a group or class intended to be the beneficiaries of the Demolition Plan and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- (d) whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process, with respect to the specific activity in question;
- (e) whether the interest or benefit was present before the affected person was in a position as described in paragraph (A) of this Article;
- (f) whether undue hardship will result either to the Grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (g) any other relevant considerations.

(C) Conducting Business in Accordance with Core Values and Ethical Standards. Entities subject to 24 CFR parts 84 and 85 are required to develop and maintain a written code of conduct (see sections 84.42 and 85.36(b)(3)). Consistent with regulations governing specific programs, the code of conduct must: prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by officers, employees and agents for their personal benefit in excess of minimal value; and, outline administrative and disciplinary actions available to remedy violations of such standards. Grantees are required, prior to entering into a grant agreement with HUD, have developed a code of conduct and to ensure that all officers, employees and agents of the organization are aware of the code of conduct.

ARTICLE XIII. Reporting Requirements

(A) Quarterly Report.

- (1) The Grantee will submit to HUD a Quarterly Report, the form and substance of which will be specified by HUD, no later than 30 calendar days after the end of each quarter.
- (2) The Grantee agrees that each Quarterly Report submitted under paragraph (A)(1) above will constitute, and be deemed to be, a representation that the Grantee is not in default under this Grant Agreement except as the Grantee may otherwise disclose in the Quarterly Report or in other notification to HUD.
- (3) Failure to submit to HUD a timely Quarterly Report will result in a suspension of grant funds in LOCCS until such time as the report is received and approved by HUD, and/or any other default remedy authorized by Article XV (Unsatisfactory Performance/Default).

- (B) Obligations and Expenditures. The Grantee must enter cumulative obligation and expenditure data into LOCCS by the due dates established by HUD, whether or not there has been any change in the cumulative amounts since the end of the last quarter.
- (C) Additional Information Requests. Subject to paragraph (D) of this Article, the Grantee will:
- (1) comply with all other reporting requirements from time to time established by HUD, in its sole discretion, in connection with the HOPE VI Program;
 - (2) fully cooperate with all reasonable information gathering requests made by HUD or contractors of HUD in the course of authorized evaluations of the HOPE VI Program; and
 - (3) comply with any reporting requirements established by the Office of Fair Housing and Equal Opportunity regarding the racial, ethnic or other characteristics of the applicants, participants, and beneficiaries of the HOPE VI Program.
- (D) Additional Requirements. The Grantee agrees to comply with all other terms and conditions HUD may establish to administer, monitor, or evaluate the HOPE VI Program in an effective and efficient manner. Notwithstanding the foregoing, however, except as provided in Article XV (Unsatisfactory Performance/Default), HUD hereafter will not establish any additional terms and conditions without:
- (1) consideration of the burden imposed on the Grantee by such conditions or requirements;
 - (2) consideration of the availability of less burdensome conditions or requirements; and
 - (3) in the case of a term or condition applicable solely to the Grantee, consulting in advance with the Grantee.

ARTICLE XIV. Technical Assistance

- (A) Site Visits. The Grantee acknowledges and agrees that HUD, or its designees, may conduct site visits and inspections as deemed necessary by HUD, in response to a request from the Grantee, and/or the needs of the HOPE VI Program. HUD or its designees may provide technical assistance site visits.
- (B) Grantee Training/TA. The Grantee agrees to use its best efforts to attend any training and to accept any technical assistance provided or sponsored by HUD.

ARTICLE XV. Unsatisfactory Performance/Default

(A) Special Conditions.

- (1) General. HUD may require the Grantee or any subgrantee to comply with any or all of the following special conditions, in a manner satisfactory to HUD, if HUD determines that such action will assist in the proper and efficient implementation of the Demolition Plan, regardless of whether the Grantee is in default under paragraph (B) of this Article.
- (2) Types of Special Conditions. The special conditions that HUD may impose under paragraph (A)(1) of this Article include:
 - (a) withholding authority to proceed or proceed further until it receives evidence from the Grantee of acceptable performance within a given funding period;
 - (b) requiring additional, more detailed financial reports;
 - (c) requiring additional project monitoring;
 - (d) requiring the Grantee or subgrantee to obtain technical or management assistance;
 - (e) establishing additional prior approvals; and
 - (f) making arrangements satisfactory to HUD, in its sole discretion, for use of an entity other than the Grantee to carry out activities assisted under the Demolition Plan.
- (3) Notice of Conditions. If HUD decides to impose any such conditions or restrictions upon the Grantee or subgrantee, HUD will notify the Grantee or subgrantee in writing, as early as possible. Such notice will contain the following information:
 - (a) a description of the special conditions or restrictions;
 - (b) the nature of the unsatisfactory performance and the reason for imposing such special conditions or restrictions;
 - (c) the corrective actions which must be taken before the conditions or restrictions will be removed, and the time allowed for completing the corrective actions; and
 - (d) the method for requesting reconsideration of the conditions or restrictions imposed.

(B) Default. Each of the following events or occurrences, to the extent it constitutes a

material breach or occurrence, may, in HUD's sole discretion, constitute a default by the Grantee under this Grant Agreement:

- (1) use of grant funds for any purpose, in any manner or at any time, other than as authorized by this Grant Agreement;
- (2) failure to comply with the HOPE VI Demolition Requirements or any other Federal, State, or local laws, regulations or requirements applicable in implementing the Demolition Plan;
- (3) failure to make any required submission under Article II(A)(2), perform any obligation, or otherwise fail to proceed in a manner consistent with the Demolition Plan, including, without limitation, failure to accomplish an activity by the date specified in the Program Schedule;
- (4) any material misrepresentation contained in a submission required in connection with the Demolition Activities, including, without limitation, any misrepresentation in any submission required under the Demolition Plan, the HOPE VI Demolition Grant Application, or any subsequent revisions thereto;
- (5) failure to comply with, or any material breach of, any other requirements, conditions, or terms of this Grant Agreement;
- (6) failure to demonstrate that the Grantee has made necessary and appropriate arrangements, through staffing and/or contracts, to implement its Demolition Plan; or
- (7) failure to comply with the provisions of the ACC, which default relates to the Development or the Grantee's ability to perform all of its obligations under this Grant Agreement.

(C) Notice of Default and Action(s) to Cure.

- (1) General. HUD will give the Grantee written notice of any default. The notice will give the Grantee the opportunity to cure such default within 30 days of the date of the notice, or to demonstrate within this time period, by submitting substantial evidence satisfactory to HUD, that it is not in default. If the default is not able to be cured within the 30-day period, the Grantee will demonstrate, to HUD's satisfaction, that the Grantee has taken actions necessary to cure the default and that the default is curable within 90 days from the date of the default notice. Additionally, the Grantee must agree to carry out such cure diligently and to complete the cure within the 90-day period.
- (2) Imminent Threat. Notwithstanding the provisions of paragraph (C)(1) of this Article concerning the opportunity to cure defaults, if HUD determines, in HUD's sole discretion, that there is an imminent threat that

the Grantee will expend additional grant funds in violation of the provisions of this Grant Agreement, HUD may implement the remedial action provided for under subparagraph (C)(3)(d) of this Article to prevent any such unauthorized expenditure until such time as the Grantee has complied with the cure provisions set forth above. HUD will implement such remedial action by written notice set forth either in the notice of default given under paragraph (C)(1) of this Article or by subsequent written notice to the Grantee.

- (3) Remedial Actions. If the Grantee fails to cure all defaults specified in the notice of default within the time periods set forth in paragraph (C)(1) of this Article, or fails to diligently pursue or complete any cure as provided in paragraph (C)(1), HUD may take any of the following remedial actions, upon written notice to the Grantee:
- (a) require the Grantee, within a time period established by HUD, to prepare a revised Program Schedule, obtain HUD's approval thereto, and follow such revised Program Schedule to complete the activities under the Demolition Plan;
 - (b) require the Grantee, within a time period established by HUD, to revise its Demolition Plan in a manner satisfactory to HUD, including, without limitation, exclusion or revision of affected activities, revision of the Program Budget, and substitution of other eligible activities;
 - (c) require submission of additional documentation before any additional request for funds will be approved;
 - (d) temporarily suspend the Grantee's authority to draw down grant funds for affected activities, or at HUD's sole discretion for all activities, for not more than ninety (90) days, pending action to cure the defaults;
 - (e) if, after the 90 days, the default is not cured, then restrict the Grantee's authority to draw down grant funds under LOCCS by prohibiting payment or reimbursement for all grant activities or, if more appropriate (in HUD's sole discretion), only for those activities affected by the default, for an unspecified period of time pending final action by HUD;
 - (f) disallow use of grant funds for all or part of the cost of the activity or action not in compliance;
 - (g) recover amounts determined by HUD to have been improperly expended, including any property obtained by the Grantee with such grant funds;

- (h) require reimbursement by the Grantee for grant funds determined by HUD to have been improperly expended; and
 - (i) make arrangements satisfactory to HUD, in its sole discretion, for use of an entity other than the Grantee to carry out activities assisted under the Demolition Plan.
- (4) Additional Enforcement Actions. If HUD determines that the remedial actions taken by HUD under paragraph (C)(3) of this Article have not been effective in curing the default, or if the Grantee has not complied with the requirements imposed by HUD under paragraph (C)(3) and has not otherwise cured the default, or if HUD exercises its discretion under paragraph (C)(2) of this Article to institute any of the following actions, HUD may take any of the following remedial or enforcement actions (in addition to any of the remedies permitted under paragraph (C) of this Article upon written notice to the Grantee):
 - (a) petition for the appointment of a receiver (which may be a public housing agency, a private management corporation, or some other entity) for the Development to any district court of the United States or to any court of the State in which the Development is located;
 - (b) reduce the HOPE VI Demolition Grant in the amount affected by the default;
 - (c) terminate this HOPE VI Grant Agreement as to all further Demolition Activities and initiate closeout procedures;
 - (d) recapture any grant funds not obligated by the Grantee;
 - (e) take action against the Grantee under 24 CFR part 24 and Executive Order 12549 with respect to future HUD or Federal grant awards; and
 - (f) take any other available legal or equitable remedial action, including, but not limited to, any remedial actions available under the Grantee's ACC.

ARTICLE XVI. Project Closeout

- (A) Termination of Disbursements. Within 30 days after completion of all Demolition Activities to be performed using HOPE VI Demolition Grant funds, the Grantee will initiate Termination of Disbursements in accordance with procedures established by HUD.

- (B) Preliminary Closeout. Within 90 days after completion of all activities to be performed under the Demolition Plan using HOPE VI Demolition Grant funds, the Grantee will initiate Preliminary Closeout. At HUD's option, the Grantee may delay initiation of Preliminary Closeout until the resolution of any HUD monitoring findings. If HUD exercises this option, the Grantee must promptly resolve the findings. Preliminary Closeout documents will include:
- (1) a Final HOPE VI Budget;
 - (2) a Final Financial Report, in accordance with procedures established by HUD, which includes documentation that the match requirement in section III(E) of this Grant Agreement has been met; and
 - (3) an Actual HOPE VI Cost Certificate (AHCC) (Form HUD-53001-A), which summarizes the information on the Final Financial Report and serves as the document that officially closes out the grant. The AHCC will identify and authorize recapture of any unexpended HOPE VI Grant funds and include the Grantee's agreement to abide by any continuing Federal requirements.
- (C) Final Audit. The Grantee must forward its final audit of grant funds, performed in conformance with the requirements of 24 CFR 85.26 and/or 24 CFR 84.26, as appropriate, to HUD for approval.
- (D) AHCC. The designated HUD official will execute the AHCC and any unexpended grant funds will be recaptured when HUD determines to its satisfaction that:
- (1) the expenditure of grant funds provided under this Grant Agreement was allowable and reasonable, as determined by the final audit, and
 - (2) the Demolition Activities were completed, as required by the Grant Agreement, and all Federal requirements were satisfied.

ARTICLE XVII. Effective date

- (A) The effective date of this agreement is the date that HUD executes the Cover Sheet to this Grant Agreement.